



Comptroller General
of the United States

Washington, D.C. 20548

LEBOWITZ

Decision

Matter of: Correa Enterprises, Inc.

File: B-241912

Date: March 5, 1991

R.R. (Dick) Flowers, Jr., Esq., Fairfield, Farrow, Hunt, Reecer & Strotz, for the protester.
Vincent Little, for Diversified Business Technologies Corporation, an interested party.
Justin P. Patterson, Esq., and Alton E. Woods, Esq., Department of the Interior, for the agency.
Linda S. Lebowitz, Esq., Andrew T. Pogany, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Where agency's evaluation of proposals was fair and reasonable and in accordance with the solicitation's stated evaluation criteria, and where protester's and awardee's proposals were reasonably determined to be essentially technically equal, price properly became the determining factor for award.

DECISION

Correa Enterprises, Inc. (CEI) protests the proposed award of a contract to Diversified Business Technologies, Inc. (DBT) under request for proposals (RFP) No. BIA-MOO-90-21, issued by the Department of the Interior for on-site programming maintenance and telecommunications support services for the Bureau of Indian Affairs' Office of Data Systems, National Technical Support Center. CEI essentially alleges that the evaluation of proposals was arbitrary and capricious.

We deny the protest.

The RFP, a Buy-Indian set-aside for small businesses with at least 51 percent Indian ownership, was issued on July 16, 1990, and contemplated the award of a cost-plus-fixed-fee contract for computer programming maintenance and enhancements in various application areas. The RFP contained the following

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four technical evaluation factors and the maximum point values for each factor: (1) understanding of all elements of the statement of work (SOW) as demonstrated by the offeror's technical approach (20); (2) comprehension of work as evidenced by the proposed level of effort and management plan (20); (3) corporate experience and overall capabilities of offeror (20); and (4) qualifications and commitment of personnel (30-mandatory experience; 10-desirable experience).

The RFP also stated that cost and cost-related factors would play a significant role in determining which firm would receive the award. The RFP provided that the award would be made to the firm whose technical capabilities and cost offered the "best value" to the government. The RFP advised that as technical scores became increasingly competitive, proposed costs would play a major role in determining which firm offered the "best value" to the government.

Eight firms submitted initial proposals by the closing date of August 31. After the initial evaluation, the agency determined that five offerors, including CEI and DBT, were within the competitive range. By letter dated October 12 from the agency to each offeror within the competitive range, written discussions were held and best and final offers (BAFOs) were requested with a closing date of October 19.

After the evaluation of BAFOs, CEI received a technical score of 91.75 points and DBT received a technical score of 90.50 points. Because there was only a 1.25 difference between CEI's and DBT's technical scores, the agency considered these firms to be essentially technically equal. Specifically, the agency determined that CEI's and DBT's proposals were essentially technically equal based on their respective understanding of the SOW, management plans, corporate experience, and personnel qualifications. Therefore, the agency notified all firms on October 29 of its intention to award a contract to DBT, the low-priced offeror. CEI filed this preaward protest on October 31.

CEI contends that the technical evaluation of proposals was flawed. Specifically, CEI argues that under the evaluation factors concerning a firm's management plan, its corporate experience, and the qualifications and commitment of its personnel, CEI, as the incumbent contractor, should have received significantly more points than DBT and been rated technically superior to, not technically equal with, CEI.

In reviewing protests against the propriety of an agency evaluation of proposals, it is not the function of our Office to evaluate those proposals independently. Institute of Modern Procedures, Inc., B-236954, Jan. 23, 1990, 90-1 CPD ¶ 93. We will examine an agency's evaluation to ensure that it was fair and reasonable and consistent with the evaluation criteria stated in the RFP. Research Analysis and Maintenance, Inc., B-239223, Aug. 10, 1990, 90-2 CPD ¶ 129. A protester's disagreement with the agency's evaluation is itself not sufficient to establish that the agency acted unreasonably. Here, after reviewing the record, we conclude that the evaluation was fair and reasonable and in accordance with the RFP's stated evaluation criteria.

Concerning the management plan factor, the agency found that both CEI and DBT clearly understood the requirements of the SOW. The agency found that CEI's management plan was well conceived and included a comprehensive program for cost control. The record shows that CEI's management plan included requirements for weekly staff meetings and management status reports, weekly project status meetings between CEI and agency representatives, and preparation of monthly status reports for the agency. The plan also included program reviews, direct lines of communication between CEI's program management and the highest levels of CEI's corporate management, coordination with the agency of management procedures, and a tracking system to monitor the level of effort and costs of the project.

Similarly, the agency found that DBT's management plan reflected an excellent comprehension of the tasks to be performed. The record shows that DBT's management plan included requirements for the establishment of work standards between management and personnel, individual performance plans, daily status reports, weekly time reports, expense reports, monthly progress reports, and summary progress reports, which chronologically outline program procedures. The plan also included weekly project status meetings between DBT and agency representatives, performance evaluations coordinated between DBT's program management and agency representatives, incentive plans, and the use of project planning and implementation teams.

Concerning each offeror's experience, the agency found CEI had good corporate experience. As stated previously, CEI has been the incumbent contractor for over 4 years for this contract. In addition, the record reflects that CEI is the prime contractor for one military contract involving technical

software support and for another military contract involving software design and development support and software verification and validation. CEI is also a subcontractor for a contract involving technical support in the operation and maintenance of military simulation facilities.

The agency found that DBT's corporate experience was more limited than CEI's because DBT is a relatively new company, but recognized that DBT is the prime contractor to the agency for a 4-year systems analysis and support contract, which includes requirements for installation and upgrades of systems hardware, guidance in the development of operational standards, guidance to agency operators, applications development, and job training. The DBT offer also showed that DBT is a subcontractor for a contract involving the agency's law enforcement management system which requires DBT to perform application software training and geographic coding.

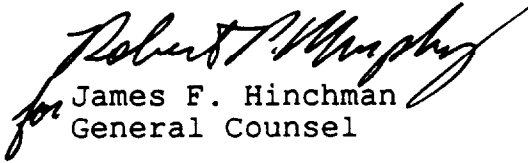
Finally, concerning the personnel factor, the record shows, based on the resumes submitted, that the individuals proposed by both CEI and DBT for the key positions of project manager, senior programmer, and programmer (all of whom were committed to perform in accordance with the terms of the RFP if their respective firm were awarded the contract) met the education requirements and the mandatory and desirable work experience requirements as outlined in the RFP.^{1/}

We find there was ample evidence in each offerors' proposal to support the agency's evaluation and determination that CEI, with a technical score of 91.75 points, and DBT, with a technical score of 90.50 points, were essentially technically equal, with only a 1.25 point difference in their respective technical scores, and that neither firm was technically superior to the other firm. When proposals are reasonably viewed as essentially technically equal, as here, price

^{1/} To the extent CEI alleges that DBT's cost proposal does not reasonably reflect what its actual cost will be during contract performance, the record shows that the agency reasonably determined that DBT's cost proposal contained all required items, including a proposed level of effort which would enable DBT to successfully perform the contract.

properly becomes the determining factor in the selection of the awardee. Cajar Defense Support Co., B-239297, July 24, 1990, 90-2 CPD ¶ 76.2/

The protest is denied.


for James F. Hinchman
General Counsel

2/ In its comments to the agency report, CEI challenges for the first time the composition of the technical evaluation team and alleges conflicts of interest in awarding this and other contracts. These issues are untimely because they were not filed within 10 working days after the bases of protest were known or should have been known. Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (1990). Where a protester initially files a timely protest and later supplements it with new and independent grounds of protest, the latter raised allegations must independently satisfy the timeliness requirements since our Bid Protest Regulations do not contemplate the unwarranted piecemeal presentation or development of protest issues. EER Sys. Corp., 69 Comp. Gen. 207 (1990), 90-1 CPD ¶ 123.